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In the Supreme Court of the United States

OCTOBER TERM, 1956

FEDERAL MARITIME BOARD, PETITIONER

v.

ISBRANDTSEN COMPANY, INC., ET AL.

JAPAN-ATLANTIC AND GULF FREIGHT CONFERENCE, ET AL., PETITIONERS

v.

UNITED STATES OF AMERICA, ET AL.

ON PETITIONS FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE UNITED STATES AND THE SECRETARY OF AGRICULTURE

J. LEE RANKIN,
Solicitor General,
Department of Justice, Washington 25, D. C.

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These petitions seek review of a decision of the Court of Appeals for the district of Columbia Circuit which set aside an order of the Federal Maritime Board, under Section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U. S. C. 814), approving the institution of a "dual-rate" system by a conference

of ocean steamship carriers. Under the system, shippers who refuse to sign agreements to patronize conference members exclusively are charged a higher rate (9½% in the instant case) for the same transportation service than shippers who sign such agreements. The court of appeals held that the dual-rate system is retaliatory and discriminatory, in violation of Section 14, Third of the Shipping Act, 1916, and that the Board therefore had no power to approve the system under Section 15 of the Act. The United States and the Secretary of Agriculture supported respondent Isbrandtsen Company, Inc. (a non-conference carrier), in challenging the Board's order in the court below.

The United States and the Secretary of Agriculture are of the view that the court of appeals correctly held that the dual-rate system is "*per se*" illegal under the Shipping Act, 1916, *i. e.*, illegal without regard to its effect upon competition in a particular trade. However, since the case presents an important question of federal law which has not been, but should be, settled by this Court, we do not oppose the petitions for certiorari.

Respectfully submitted.

J. LEE RANKIN,
Solicitor General.

MARCH 1957.